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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

9-11-85

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In the Matter of	:	<u>CONSENT AGREEMENT</u>
	:	<u>AND</u>
SERVICIOS CARBAREON INC.	:	<u>CONSENT ORDER</u>
(Now known as Resource	:	
Management, Inc.)	:	
PRD091018622	:	
Penuelas, Puerto Rico	:	
	:	
Respondent.	:	Docket No. II RCRA-84-0307
	:	
Proceeding Under Section 3008 of the	:	
Solid Waste Disposal Act, as amended.	:	
-----X	:	

PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq. ("the Act"). [Note: Among the statutes amending the Act is the Resource Conservation and Recovery Act, 90 Stat. 2795, P.L. 94-580 (1976).]

The Director of the Air and Waste Management Division of the U.S. Environmental Protection Agency ("EPA"), Region II, Complainant in this proceeding, issued a Complaint, Compliance Order, and Notice of Opportunity for Hearing to Respondent, on September 27, 1984. Resource Management, Inc., Respondent in this proceeding, neither admits nor denies specific factual allegations contained in the Complaint or in this Consent Agreement and Consent Order. The Complaint charged Respondent with certain violations of Section 3005 of the Act, 42 U.S.C. §6925, and the regulations promulgated thereunder, as follows:

1. Respondent owns and operates a facility located at Carr 385, Km 3, Hm 5, Tall Aboa, Penuelas, Puerto Rico, 00724 ("the facility").

2. By notification dated September 15, 1980, Respondent informed EPA that it conducts activities at the facility involving "hazardous waste," as that term is defined in Section 1004 (5) of RCRA, 42 U.S.C. §6903(5) and in 40 C.F.R. §261.3. By application dated November 11, 1980, Respondent requested a permit to conduct its hazardous waste activities.

3. On or about March 21 and 22, and August 14, 15 and 16, 1984, inspections of the facility were conducted by duly-designated representatives of EPA pursuant to Section 3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing the EPA regulations for hazardous waste management, 40 C.F.R. Parts 2600 through 265 and 270 (published in 45 Fed. Reg. 33073 et seq., May 19, 1980, and as later amended), promulgated pursuant to Subtitle C of the Act, 42 U.S.C. §6921 et seq.

4. 40 C.F.R. §270.71(a)(1) states that during the interim status period the facility shall not treat, store, or dispose of hazardous waste by processes not specified in Part A of the permit application. At the time of the above referenced inspections, EPA learned that Respondent's facility was being used for the treatment of hazardous wastes by solidification.

This process was not identified in Respondent's Part A of the permit application and EPA never issued a permit for this activity. Therefore, Respondent is in violation of 40 C.F.R. §270.71(a)(1).

5. Analyses of samples taken during the EPA inspection of March 21 and 22, 1984 reveals that hazardous waste was disposed in the area designated by Respondent as the non-hazardous land treatment area. EPA alleges that Respondent is therefore in violation of Section 3005(a) of the Act. Respondent reserves the right to submit evidence to EPA disputing this alleged violation.

6. 40 C.F.R. §270.72(c) states that changes in the process for the treatment, storage or disposal of hazardous waste may be made at a facility or additional processes may be added if the owner or operator submits a revised Part A application prior to such a change (along with a justification explaining the need for the change) and the Director (EPA) approves the change. During the above referenced inspections, EPA learned that Respondent had moved the drum storage area identified in the Part A as being located on the northeast portion of the facility to the southern side. In addition, the Part B permit application submitted by Respondent reveals other changes made at the facility without EPA's approval; a drum burial area was opened and closed in the central portion of the facility; and three immobilization areas were opened in the southern portion

of the facility. Respondent did not request or receive approval from EPA for these changes. Respondent is therefore in violation of 40 C.F.R. §270.72(c).

7. 40 C.F.R. §270.10(e)(4) states that at any time after promulgation of final regulations for the activities conducted at its facility, EPA may require the owner or operator of an existing TSD facility to submit Part B of the permit application by a specified date. The specified date must be at least six months from the date of the request to submit the Part B.

8. By letter dated February 4, 1983, EPA requested the submittal of Respondent's Part B by August 13, 1983. A copy of the letter was attached to the Complaint as Appendix A.

9. By letter dated July 27, 1983, Respondent requested extension until September 15, 1983 for submittal of the Part B.

10. Complainant agreed to Respondent's requested extension.

11. Under cover of a letter dated September 15, 1983, Respondent submitted a Part B application.

12. Under cover of a letter dated June 20, 1984, Complainant issued Respondent a Notice of Deficiency (NOD) which contained a detailed description of the areas where Respondent's Part B application was deficient or incomplete. The NOD also established a new date of July 23, 1984, for the submission of a complete

Part B application. A copy of the NOD was attached to the Complaint as Appendix B.

13. By letter dated July 16, 1984 and a meeting on July 13, 1984, Respondent notified EPA that it could not meet the July 23 deadline for responding to the NOD.

14. By letter dated September 7, 1984, Respondent was granted an extension to October 31, 1984 to submit a complete Part B application. Respondent submitted such an application, in response to the NOD, on October 31, 1984. Additionally, Respondent was notified, by letter dated September 7, 1984, that EPA would consider citing Respondent for violation of 40 C.F.R. §270.10(e)(4) upon further review of the matter. A copy of the letter was attached to the Complaint as Appendix C.

15. Upon further review of the circumstances, EPA has determined that Respondent has had sufficient time and opportunity to develop a complete Part B application. Since to date Respondent has not submitted a completed Part B permit application, Respondent is in violation of 40 C.F.R. §270.10(e)(4).

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 3008 of the Act, and Section 22.18 of the Consolidated Rules of Practices

Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR §22.18, Respondent and EPA hereby agree as follows:

1. Respondent shall submit to EPA a complete Part B permit application. The items that comprise a complete application, and a time schedule for the submission of each item, are set forth in the "Plan of Action" attached hereto as Appendix D.

2. a. Respondent shall, by no later than November 1, 1985, submit to EPA documentation based on the closure cost estimate submitted to EPA on March 22, 1985 sufficient to demonstrate full compliance with all of the financial responsibility requirements set forth at 40 CFR Part 264 Subpart H.

b. Respondent shall, within sixty (60) days of receipt of a revised closure cost estimate prepared by EPA, submit to EPA revised documentation to demonstrate full compliance with all of the financial responsibility requirements set forth at 40 CFR Part 264 Subpart H. During the sixty day period Respondent shall have the opportunity to confer with EPA regarding EPA's closure cost estimate.

3. Respondent agrees to construct, on an accelerated schedule in accordance with all applicable EPA requirements, the following hazardous waste management units:

- a. Stabilization facilities;
- b. Tank storage and treatment facilities;

- c. Landfill areas;
- d. Container storage; and
- e. Stormwater and leachate management and/or treatment facilities.

Respondent and EPA agree that expeditious upgrading of the facility is in the best interest of meeting the long-term regulatory goals and objectives. The Plan of Action, attached hereto as Appendix D, sets forth an accelerated schedule.

4. Respondent shall, within sixty (60) days of the effective date of this Consent Agreement, take the following actions at the facility:

- a. Respondent shall comply with Puerto Rico Rule ("Rule") 703 in relation to the manifest requirements.
- b. Respondent shall comply with the requirements of Rule 807 I (4) in relation to insuring that the analysis of incoming hazardous waste shipments are analyzed by the generator at least yearly.
- c. Respondent shall comply with the requirements of Rule 807 I (5) in relation to carrying out a waste analysis in accordance with the procedures set forth in its Waste Analysis Plan.
- d. Respondent shall comply with Rule 809 A and B, in relation to the proper storage of ignitable hazardous waste.

e. Respondent shall comply with Rule 812 D (1) and (2), in relation to insuring that all containers holding hazardous waste (including bags of electroplating sludge) are closed when not being filled or emptied.

f. Respondent shall comply with Rule 816 D, in relation to the prohibition against disposal of any ignitable hazardous waste into a trench without first treating it or otherwise determining that such waste is no longer ignitable.

g. Respondent shall comply with Rule 817 B (15), in relation to minimizing erosion from earthen dikes by use of a protective cover.

5. Respondent may construct an area to be known as "temporary drum storage area #19" which may be used to store containers of hazardous waste in accordance with the Plan of Action while a berm and other containment measures are being constructed at drum storage area #4. Immediately upon completion of the work at storage area #4, all containers of hazardous waste shall be removed from area #19, and area #19 will be closed as expeditiously as possible in accordance with the requirements of 40 CFR Part 264.

6. If any event occurs which causes a delay in compliance with any of the requirements of this Consent Agreement and Consent Order, Respondent shall promptly notify EPA orally and shall, within seven (7) days of such oral notification, notify EPA in writing of the anticipated length and cause of the delay, the

measures taken by Respondent to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the EPA and the Respondent can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, such as an Act of God, or third parties not under the direction of Respondent, or obtaining necessary permits or approvals, where Respondent has made all reasonable efforts to obtain said permits or approvals, including circumstances which constitute force majeure, the time for performance hereunder may be extended, in the sole discretion of EPA, for a reasonable period. Provided, however, that neither increased costs or expenses associated with the implementation of this Consent Agreement and Consent Order nor changed economic circumstances shall constitute force majeure.

7. Within two hundred forty (240) days of receipt by Respondent of a signed and executed copy of this Consent Agreement and Consent Order, Respondent shall commence to pay by cashier's or certified check a civil penalty in the amount of sixty three thousand dollars (\$63,000.00), payable to the Treasurer, United States of America. The first payment shall be due on or before the two hundred fortieth day after Respondent receives a signed and executed copy of this Consent Agreement and Consent Order, and shall be in the amount of eight thousand dollars (\$8,000.00). Eleven (11) payments of five thousand dollars (\$5,000.00) shall

be made every ninety (90) days thereafter, until the entire amount is paid. Such payments shall be remitted to the EPA - Region II (Regional Hearing Clerk), P.O. Box 360188M, Pittsburgh, P.A., 15251. Failure to either remit such payments in full by the time they are due or to fully comply with the terms of this Agreement will result in the referral of this matter to the United States Attorney for appropriate action. Furthermore, if payment is not received by the due date established herein, interest will be assessed on the overdue payment for each thirty (30) day period or portion thereof. The interest rate assessed will be based on the current value of funds to the U.S. Treasury at the time the order is issued and will remain in effect until payment is received.

This Consent Agreement and Consent Order is being entered into by the parties in full settlement of all liabilities which might have attached as a result of the proceedings. Respondent admits the jurisdictional allegations of the Complaint. Furthermore, Respondent has read the Agreement and neither admits nor denies specific factual allegations contained in the Complaint or in this Consent Agreement and Consent Order. Respondent consents to the assessment of the civil penalty set forth in the Agreement and explicitly waives its right to request a hearing on the Complaint, the Consent Agreement, or the attached Consent Order.

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RESPONDENT:


BY:


RESOURCE MANAGEMENT, INC.

DATE:

8-23-85

COMPLAINANT:

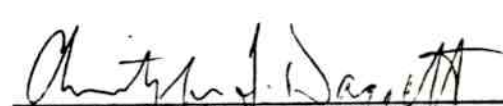

CONRAD SIMON
Director
Air and Waste Management
Division

DATE:

8/30/85

CONSENT ORDER

The Regional Administrator of EPA, Region II, concurs in the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved and issued, effective immediately.


CHRISTOPHER J. DAGGETT
Regional Administrator
U.S. Environmental Protection
Agency
Region II
26 Federal Plaza
New York, New York 10278

DATE:

SEPTEMBER 11, 1985

TABLE G-15

PROPOSED SCHEDULE
Emergency Equipment

<u>Item</u>	<u>Quantity</u>	<u>Date</u>
Vermiculite	10 50-lb bags	August 19, 1985
Speedi-Dry	10 50-lb bags	August 19, 1985
Caliche	10 50-lb bags	August 19, 1985
Two Gallon Bucket with Handles	5	January 20, 1986
Five Gallon Bucket 5/8" quartered (2' x 4')	5	January 20, 1986
Reinforced Visqueen	2 Rolls	January 20, 1986
Reinforced Plastic Bags	50	January 20, 1986
Scott Air Packs	2	August 19, 1985
Air tanks (for above)	2 2	January 20, 1986 August 19, 1985
Hard Hats	24	January 20, 1986
Shoulder Length Gloves	3 Pair	January 20, 1986
Hand-held Air Horn	10	January 20, 1986
Eye Wash Station	6	As new facilities are constructed
Decontamination Showers	6	As new facilities are constructed
Decontamination Showers	3	October 21, 1985

PLAN OF ACTION

Proposed Action

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| 1 | 9/2/85 | Upgrade and inspect fire control facilities including the cab, trailer, wheels, pump, and appurtenances. |
| 2 | Submitted August 1984 | Submittal of non-sudden insurance information. |
| 3 | Initiated May 1985 | Initiate polymeric liner testing program. |
| 4 | 8/19/85 | Submission of contract drawings and specifications for proposed container storage area. |
| 5 | 8/19/85 - Conceptual Drawings | Submission of contract drawings and specifications, including final material specifications, for proposed tank storage area. |
| 6 | 9/9/85 - Specifications for Tank Storage | |
| 7 | 11/25/85 - Storage and Process Final Contract Drawings and Specifications | |
| 8 | 11/25/85 | Submission of cross-sections and design calculations for proposed immobilization facilities stormwater control system. |
| 9 | 11/25/85 | Submission of proposed off-site storm - water control facilities improvements. |

- 10 11/25/85 Submission of sizing calculations, drawings, and specifications for storm-water holding facilities for staging, transfer, and treatment areas.
- 11 8/19/85 Submission of soil boring results to determine foundation strength for proposed immobilization facilities.
- 12 9/2/85 Submission of slope stability analysis, bearing capacity analysis, and laboratory soils analysis.
- 13 Tank closed, closure plan submitted 8/84. Awaiting approval of closure plan. Inspection of lindane tank.
- 14 8/19/85 Submission of operations and maintenance manual outline.
- 15 11/25/85 Submission of reports entitled "Stormwater Drainage Control System for Carbareon Industrial Waste Site" and "Proposed Tank Farm, Drum Storage Area, Earthwork and Site Improvements".
- 16 8/19/85 Completion of statistical analysis for first semi-annual groundwater sampling (samples obtained April 22, 1985)
- 17 8/31/85 SCI will obtain steel tape with gradations to the hundredth of a foot for water level measurements.

- 18 9/9/85 Field measurements will be made for pH and specific conductance.
- 19 11/25/85 Submission of final design drawings for the proposed immobilization facilities.
- 20 9/2/85 Submission of results of soil testing programs, geotechnical evaluations, and analysis of foundation soils including load bearing capacity tests.
(Same as item numbers 11 and 12)
- 21 To be addressed as part of Hydrogeological study as per Separate Consent Agreement Quarterly groundwater sampling program.
- 22 9/30/85 Installation of level monitoring devices and adjustable reference markers on surface impoundments.
- 23 9/30/85 SCI chemist, salesman, or other authorized representative will visit major generators to conduct generator audits.
- 24 30 days after regulatory approval of temporary drum storage area #19 Construction of berms for separate storage area for acids in drum storage area.
- 25 8/19/85 Begin purchases of emergency equipment (see Table G-15 attached).
- 26 9/16/85 Complete testing of polymeric liner with designated leachate.

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| 28 | 9/30/85 | Submission of liner test program report. |
| 29 | 60 days after regulatory approval | Commencement of construction for proposed drum storage area. |
| 30 | To be addressed as part of Hydrogeologist Study its per Separate Consent Agreement | Submission of base permeability study for proposed immobilization facilities. |
| 31 | 60 days after regulatory approval | Commencement of construction for proposed tank storage area. |
| 32 | 11/25/85 | Submission of engineering report and specifications for leak detection and removal systems. |
| 33 | 11/25/85 | Submission of contract drawings and specifications for proposed immobilization facilities. |
| 34 | 11/25/85 | Submittal of partial closure schedule for immobilization facilities. |
| 35 | 11/25/85 | Submission of quality control program for installation of liner system. |
| 36 | To be addressed as part of Hydrogeological Study as per Separate Consent Agreement | Analysis of July groundwater sampling results from laboratory. |
| 37 | To be addressed as part of Hydrogeological Study as per Separate Consent Agreement | Installation of deep groundwater monitoring wells A, B, and C. |

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| 39 | To be addressed as part of Hydrogeological Study as per Separate Consent Agreement | Completion of deep borehole investigation D and E. |
| 40 | To be addressed as part of Hydrogeological Study as per Separate Consent Agreement | Submission of report presenting additional hydrogeologic data to substantiate the proposed detection monitoring program. |
| | | Proposed closure of the following units under 264 standards: |
| 41 | 60 days after opening of new drum storage area | o drum storage area #4 |
| 42 | 60 days after opening of new drum storage area | o temporary drum storage area #19 |
| 43 | New closure schedule to be submitted 1/1/86 | o immobilization facility #16 |
| 44 | 60 days after opening of tank farm | o tank storage area #15A |
| 45 | New closure schedule to be submitted 1/1/86 | o surface impoundments #7, 9, 13, 17 |
| 46 | 180 days after regulatory approval | Completion of construction for the proposed drum storage area. |
| 47 | 1/20/86 except where noted for new facilities | Completion of purchase of emergency equipment (see Table G-15). |
| 48 | 60 days after regulatory approval (some work already started - drainage improvements). Design submittal dates were previously listed in this plan of action document. | Commencement of construction for earthwork and site improvement program including improvements of existing run-off control facilities and final design of the proposed tank storage area, drum storage area, and immobilization facilities, and loading and unloading sites to be constructed at the neutralization impoundments, oil lagoons, immobilization facilities, and lindane storage tanks. |

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| 40 | 60 days after regulatory approval | Commencement of construction for proposed immobilization facility IM-2. |
| 50 | 30 days after regulatory approval of closure plan | Completion of closure for the lindane tank. |
| 51 | 60 days after regulatory approval | Commencement of construction for laboratory facilities and equipment. |
| 52 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of construction for proposed immobilization facility IM-2. |
| 53 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for drum storage area (DE). |
| 54 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for immobilization facility (TI ₃). |
| 55 | Revised closure and construction schedules to be submitted 1-1-86 | Proposed commencement of closure of surface impoundments. |
| 56 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of construction for laboratory facilities. |
| 57 | Revised closure and construction schedules to be submitted 1-1-86 | Purchase sampling equipment for laboratory facilities. |
| 58 | Revised closure and construction schedules to be submitted 1-1-86 | Purchase laboratory equipment. |
| 59 | Revised closure and construction schedules to be submitted 1-1-86 | Train sampling personnel. |
| 60 | Revised closure and construction | Train laboratory staff |

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| 61 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for neutralization impoundment (LF). |
| 62 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for neutralization impoundment (LC). |
| 63 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for rainwater basin (LB). |
| 64 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for oil lagoon (LA). |
| 65 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of construction for proposed immobilization facility IM-1. |
| 66 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for proposed immobilization facility IM-2. |
| 67 | Revised closure and construction schedules to be submitted 1-1-86 | Completion of closure for proposed immobilization facility IM-1. |

SEP 18 1985

Stephen L. Gordon, Esq.
Beveridge and Diamond
Suite 2506
101 Park Avenue
New York, New York 10178

Re: In the Matter of Servicios Carbareon
Docket No. II RCRA-84-0307

Dear Steve:

Enclosed please find a copy of the settlement agreement entered in resolution of the above-referenced matter. The Consent Agreement was signed by the Regional Administrator on September 11, 1985, and takes effect on that date. Please feel free to contact me if you have any further questions.

Sincerely yours,

Bruce R. Adler
Chief
Waste and Toxic Substances Branch
Office of Regional Counsel

cc: Luis de la Cruz
Environmental Quality Board

Sandra Crystall (WH-527)
Pedro Gelabert (CFO)
Laura Livingston (PM-PA)
Ronald Gherardi (PM-FIN)
Honorable Thomas B. Yost
Regional Hearing Clerk (PM-PA)
✓ John Gorman (AWM-SW)
Stan Siegel (AWM-SW)